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10/696,069

10/28/2003

Michael Popovsky

HT03

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07/24/2006

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EXAMINER

CHIN, RANDALL E

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|----------------------------------------|--|
| Office Action Summary | Application No. 10/696,069 | Applicant(s) POPOVSKY ET AL. | |
| | Examiner Randall Chin | Art Unit 1744 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 15-26 and 28-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>063004; 030205; 051605; 030305</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 15-26 and 28-56 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10 July 2006.
2. Applicant's election of Group I, claims 1-14 and 27, in the reply filed on 10 July 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
3. The substitute specification filed 10 July 2006 has been approved and accepted.

Double Patenting

4. Applicant is cautioned that a possible double patenting rejection will be made in a subsequent Office Action with respect to related U.S. Application No. 10/562,311 (and not yet assigned) which claims similar subject matter.

Claim Rejections - 35 USC § 112

5. Claims 2-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The scope of claim 2 cannot be clearly determined since claim 2 recites that the cleansing agent comprises a "pourable soap" whereas claim 1 recites that the cleansing agent is "solid" (line 3) which appears contradictory.

Claim 6, "the substrate" lacks proper antecedent basis.

Claims 2-14, line 1, it appears that the recitation "cleansing device" in the preamble should read --cleansing pad-- for consistency purposes.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 5, 9 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor 5,955,417 (hereinafter Taylor).

The patent to Taylor '417 discloses a cleansing pad 12 (Fig. 1) comprising a web of fibers (col. 3, lines 43-47) forming a pad 10 and a solid cleansing agent 14 (col. 4, lines 2-5) distributed substantially throughout said substrate (col. 3, line 66 to col. 4, line 2) in a quantity sufficient for multiple uses (col. 4, lines 1-2) of the pad "in conjunction

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with a solvent that dissolves the solid cleansing agent for cleansing purposes" (note, quoted phrase is not a positive recitation).

As well as claim 2 is understood, the cleansing agent comprises a pourable soap (col. 4, lines 1-5). The solid cleansing agent is deemed to also be a "pourable cleansing agent" as such is in "pourable" form even before it hardens as recited in col. 7, lines 52-62. Furthermore, when the hardened soap contacts water, it will create suds and would be deemed a "pourable cleansing agent". It should also be noted that methods of making are not germane to patentability in apparatus claims.

As for claim 3, the pad comprises synthetic materials (col. 3, lines 43-49).

As for claim 5, the pad is "porous" (col. 3, lines 28-30).

As for claim 9, the pad comprises non-woven materials (col. 3, lines 43-45).

As for claim 27, Taylor teaches the recited cleansing pad. Methods of making are not germane to patentability in apparatus claims.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Lanham 3,284,963 (hereinafter Lanham).

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The patent to Taylor discloses all of the recited subject matter as set forth above with the exception of the pad comprising naturally occurring materials. The patent to Lanham discloses a cleansing pad comprising a web of fibers comprising naturally occurring materials (col. 1, lines 63-66). It would have been obvious to one of ordinary skill in the art to have modified Taylor's pad such that it comprises naturally occurring materials as taught by Lanham for reducing overall manufacturing costs. Synthetic and naturally occurring pad fibers are both well known and conventionally employed in the cleansing pad art.

As for claim 7, Lanham's pad comprises a "sponge" 8 (col. 4, lines 28-35). It would have been obvious to one of ordinary skill in the art to have modified Taylor's pad such that it includes sponge as taught by Lanham for improving liquid retention/absorption.

10. Claims 8-11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor.

Whether the pad is woven (claim 8) or non-woven is well within the level of ordinary skill in the cleansing pad art and is conventionally known. They are deemed mere mechanical equivalents of one another for their excellent cleaning characteristics.

As for claims 9 and 11, the claimed weight ratios are also within the level of ordinary skill and merely depends on the desired final use of the product. Taylor is clearly concerned with the amount of cleansing agent relative the substrate and

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through optimization, one skilled in the art will select weight ratios based upon the specific proposed use of the pad (col. 3, line 61 to col.4, line 5).

As for claim 14, the melting point characteristics are optimally selected upon the specific proposed use of the cleansing pad in terms of durability and intended environment, for example.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Hsu 6,171,007 (hereinafter Hsu).

The patent to Taylor discloses all of the recited subject matter as set forth above with the exception of the pad further including colorants. The patent to Hsu discloses a cleansing pad that can have colorants (col. 2, lines 64-67). It would have been obvious to one of ordinary skill in the art to have modified Taylor's pad such that it includes colorants as taught by Hsu for rendering the pad more aesthetically pleasing to the eye.

12. Claims 1, 3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Benitez 5,022,517 (hereinafter Benitez).

The patent to Benitez discloses in Fig. 3 a cleansing pad comprising a web of fibers (col. 3, line 65 to col. 4, line 8) forming a pad and a solid cleansing agent (soap) distributed substantially throughout said substrate in a quantity sufficient for multiple uses of the pad "in conjunction with a solvent that dissolves the solid cleansing agent for cleansing purposes" (note, quoted phrase is not a positive recitation).

As for claim 3, the pad comprises nylon (col. 4, lines 3-4) or synthetic materials.

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As for claim 6, the fibers (note, claim objection above) are non-porous (col. 4, lines 6-8).

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Reuven 5,960,506 (hereinafter Reuven).

Taylor teaches all of the recited subject matter as set forth previously with the exception of the pad having fragrances. Reuven teaches a cleansing pad having fragrances (col. 4, lines 1-12). It would have been obvious to one skilled in the art to have provided Taylor's device with fragrances as suggested by Reuven '506 for the purpose of adding a soothing aromatherapy effect.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Haq is relevant to a cleansing pad arrangement.

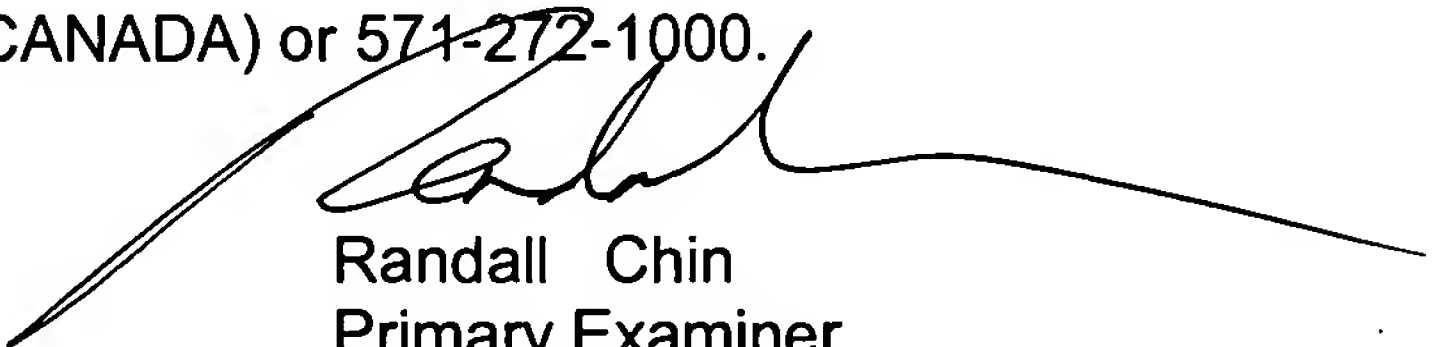
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Randall Chin
Primary Examiner
Art Unit 1744